

May 28, 2015

San Luis Obispo County Planning Commission 976 Osos Street, Room 200 San Luis Obispo, CA 93408

Re: San Luis Obispo Water Regulations

Dear Planning Commissioners,

PLANNING COMMISSION

AGENDA ITEM:

DO NOT REMOVE FROM FILE

Thank you for the opportunity to provide oral comments at the May 14, 2015 meeting and to submit this letter. The Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties represents over 160 growers, shippers, farm labor contractors, and supporting agribusinesses. Our members grow diverse crops such as broccoli, strawberries, vegetable transplants, and wine grapes. The policies being contemplated could have a potential lasting impact on local farmers' ability to grow safe, local produce for our communities. We have members operating within the Nipomo Mesa Management Area and throughout the southern portion of the County. Water is the Association's top priority.

We concur with the following points raised by our colleagues at the San Luis Obispo County Farm Bureau (letter presented 5.14.15) and/or the Paso Robles Wine Country Alliance (letter dated 5.13.15): short-term offsets should be an option; deed restrictions must terminate with the end of the program; there should not be a numerical proximity requirement for the transfer; and requiring land to remain in agricultural production is not feasible.

Attachment A: Proposed revisions to the Agriculture Element

- The termination provisions for the Paso Robles Basin that are included in Title 22 should also be included in the Agriculture Element.
- We have long-standing concerns with the **fundamental flaws of the proposed agricultural offset program**, even as revised. Both the technical design and implementation of the program are inadequate. Although this language is currently targeted at the Paso Robles basin, it could easily be expanded to other areas in the future.
- We do not support including a bullet list of best management practices as presented in Attachment A, page 2, number 2. The statement that precedes it—"Encourage farmers to use best management practices in order to best promote the efficient use of water"—is adequate and will better enable the agricultural community to continue to innovate.
- Nonprofits should be included in the list of potential cooperators on Attachment A, page 2, number 3.

Attachment A: Proposed revisions to the Conservation and Open Space Element

• The proposed additions to policies WR 1.7, 1.7.1, and WR 1.14 (Attachment A, page 5) are overly broad. These aspects are better handled in other revisions and could result in unintended consequences. They are duplicative of current basin adjudications and/or implementation of the Sustainable Groundwater Management Act. We ask that the proposed additions to WR 1.7, 1.7.1, and 1.14 on Attachment A, page 5 be removed.

Attachment C: Proposed Ordinance Changes for Title 19, Plumbing Code

- We are confused by the language on "Water meter installation and reading" in Attachment C: Title 19, on page 4, number 4, roman numeral i. We ask that you clarify this language with an exemption for agricultural uses, particularly if installing a replacement well.
- We suggest a termination provision for the proposed changes to the plumbing code.

 MORRIMMOO DIMMANATO

Attachment D: Proposed Ordinance Changes for Title 22

We have grave concerns with the provisions of Attachment D: Title 22 if they were to apply to additional areas of the county in the future. As repeatedly mentioned, we have significant concerns with the agricultural offset program, even with its revisions.

- We are particularly concerned with the potential unintended consequences on current operators whose normal, historical business practices could be misconstrued as "intensified" irrigated crop production and trigger the offset program. More specifically, many of the vegetable nurseries and greenhouses on the Nipomo Mesa and in other areas of the County have annual and seasonal fluctuations in production. Orchards and vineyards must periodically replant their crops as plants age, plant breeding improves, and market demands evolve. We do not believe that the current wording for "Exemptions. Sites with Existing irrigated crop production which have been under continuous rotational operation" is adequately protective of these common, existing production situations and ask that the intention to exempt existing operations be clearly memorialized in the proposed Ordinance (Attachment D, page 3, item B).
- Offsets should also include common *operators* as a criteria, which would be more representative of many vineyard management and row crop arrangements (Attachment D, page 4, item E).
- We question whether requiring an on-site offset is necessary and merits the applicant's time, administrative burden, and expense (Attachment D, page 4, item E).
- We are not in agreement with the water use figures in Table 2. Even if these numbers are intended to simplify the *implementation* of the offset program, they are inherently establishing a precedent of setting water use numbers, which will vary by year, geography, and individual operation (Attachment D, page 6, item G9)
- The definition "New or Expanded Irrigated Crop Production" includes "other improvements." This creates too much uncertainty in future interpretation. Will all of these definitions be removed upon termination?

Other logistical questions to consider in the contemplated changes to Title 22 include:

- Will County staff have the agricultural expertise to review applications?
- How will the changes to important farmlands be monitored or enforced?
- How will deed restrictions be removed upon the termination of the program?
- Is this a taking of rights?

Finally, we ask that the termination provisions in Title 22 be mirrored in the other Ordinances and emphasize our concerns with the offset program.

Thank you for your consideration and hope you will incorporate these comments into your recommendations.

Sincerely,

Claire Wineman, President

Claire Wineman



SAN LUIS OBISPO COUNTY FARM BUREAU

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May 29, 2015

PLANNING COMMISSION

San Luis Obispo County Planning Commission 976 Osos St. Rm. 200 San Luis Obispo, CA 93401

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Re: Countywide Water Conservation Program

Dear Commissioners:

The San Luis Obispo County Farm Bureau (SLOCFB) appreciates the opportunity to comment on the Countywide Water Conservation Program, particularly the Offset Ordinance amendments. The SLOCFB Board of Directors requests your attention on the following points:

- 1. In regards to the language in relation to water reduction and 1:1 ratio, on page 2-3 of Section 2.0 Project Description of the Draft EIR the statement is made: "The proposed Agricultural Offset program is... intended to substantially reduce groundwater extraction and lowering of groundwater levels in the Paso Robles Groundwater Basin..." What is the basis for an end product that results in less groundwater extraction? A 1:1 ratio would likely result in equal extraction volumes.
- 2. Is the answer to the above paragraph possibly found in the statement "minimum 1:1 ratio"? The statement in the first paragraph of 2-3 reads that "all new or more intensively irrigated agriculture offset new water use <u>at a minimum 1:1 ratio</u>". Is the intent that the ratio can be a great reduction in use? Lesser than 1 to 1. For example, the requirement could actually be the agriculture use that would be allowed may be 75% or 50% (.75:1 or .50:1)?
- 3. As the process of adopting an offset ordinance progresses SLOCO Farm Bureau Board of Directors urges clarification of the definition of "new crop production". Table 1 shows that "New crop production on site of crop being replaced" as a clearance category. It needs to be clearly understood and stated that if one is "replacing" an existing crop, such as grape vines or apple trees, with the same crop (grape vines or apple trees) and in the same intensity there should be no offset requirement. There are many reasons for a plant or plants to require removal with new ones planted in their place. Disease and economics or new varietals which might

even be more drought resistant are examples of positive replacements. These types of replanting should not trigger an offset requirement.

- 4. As Farm Bureau stated at the prior hearing, Section G-2 stating that the sending site(s) "will remain in some form of crop production" should be stricken. A landowner should not be mandated to continue in crop production regardless of the availability water if economics, disease or other factors make continued production impossible. There may come a time when grazing might be the best use of this land. Would this offset condition preclude grazing at some time?
- 5. SLOCFB would like to urge the Planning Commission to support a short-term offset program of 1 to 4 years, which would be more appropriate for certain types of crops such as annual vegetable or seed crops. This is separate from the currently proposed program that is proposed to last until SGMA is adopted and possibly beyond.
- 6. Some SLOCFB members have asked about "vested rights". It is our understanding that the Board of Supervisors directed that no new "vested rights" would be allowed in the new offset ordinance. But, if the Planning Department has approved a landowner as having satisfied the "vested rights" criteria and he/she is in the process of planting but has not yet been able to plant the crop, will he/she be allowed to complete the planting after August 15 when the urgency ordinance expires?

Please give consideration to these comments and questions during the decision making process.

Sincerely, (SAF)
Carlos Castaneda

Carlos Castañeda

President

San Luis Obispo County Farm Bureau

PLANNING COMMISSION

AGENDA ITEM: DATE:

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Archive

{In Archive} Re: Fw: From Paso Robles City Manager Jim App

04/01/2010 09:02 AM

Bruce Gibson to: Paavo Ogren

Co. Cherie Aispuro, "Howard, Courtney"

This message is being viewed in an archive.

Paavo -- Yes indeed, this does raise some more questions. I'd be happy to hear from Courtney on Mon, especially as to timing of next steps - clearly there are a lot of threads to consider here and I hope we don't have to do much before we get LO finished.

BG

Paavo Ogren

Bruce A few different issues exist. Enjoy the rea...

03/31/2010 02:51:11 PM

From:

Paavo Ogren/PubWorks/COSLO

Director of Public Works for SLO

Bruce Gibson/BOS/COSLO@Wings

Cc:

Cherie Aispuro/BOS/COSLO@Wings, "Howard, Courtney" <choward@co.slo.ca.us>

Date:

03/31/2010 02:51 PM

Subject:

Re: Fw: From Paso Robles City Manager Jim App

Bruce

A few different issues exist. Enjoy the reading and it would be good to discuss since this reply may create additional questions in your mind.

Jim's letter speaks to some recently completed work on the Paso Groundwater Basin. In reality, there have been numerous studies on the Paso basin over the past decade +/-. On that point, Courtney will be preparing a table in the next few weeks that lists the various studies and their purpose(s). We will send you a copy to augment this reply.

One possibility may be that Jim may be speaking to the recent basin study related to the Atascadero Sub-basin, which was prepared in response to concerns from North County (NC) on the draft Resource Capacity Study. The draft RCS included a recommendations of the nature that would prevent further subdivisions. The NC constituents raised the point that the RCS did not address the fact that Nacimiento was about to go on-line and therefore the draft RCS was flawed. Atascadero Mutual Water Company was especially concerned since they serve properties in the unincorporated area and because they estimated their needs from the Nacimiento Project based on the General Plan, and they also expect development fees to pay for a significant portion of their Naci costs. Other details also existed that identified the need for the Atascadero sub-basin study, but suffice it say that this obvious conflict on the draft RCS had NC constituents concerned and drove part of the need for the Atascadero sub-basin work. Although I am not aware of a specific concern for Paso on this particular work, the WRAC has previously commented on annexations to Paso and so perhaps Jim is concerned about the RCS and whether it will have future implications on annexations.

Another possibility relates to the PRIOR agreement. PRIOR was executed between Paso, the County, the Flood Control District, and Shandon about 5 years ago or so. It was developed to head off groundwater litigation and it essentially provides some protection to agriculture against municipalities developing "prescriptive" rights to the groundwater basin because all parties agreed that the County would need to declare the basin in overdraft before the 5 year period could begin that is required for prescriptive rights to be established. (In order for municipalities to develop groundwater rights... since we are not overlying users of the basin... we need to show that our use corresponded to 5 years while the basin was in overdraft... it's similar to squatters law... i.e the municipalities took the water from the overlying users, overlying users did nothing to stop us, now it's ours). Although this is oversimplified, the point is that our current studies do not indicate that the Paso basin is in overdraft, and perhaps Jim is

posturing in a manner to imply that they are not so sure... not a bad posture for him to take. Since the County is obligated under the PRIOR agreement to make that determination of overdraft when we believe it to be true... Jim may simply be preserving a right to argue if needed in the future. It's interesting because he could theoretically argue in the future that he was damaged (i.e. not able to argue a prescriptive right) because the County failed to declare overdraft. Most likely, he simply sees that we do have some cones of depression (evidence) in the basin and he might generally believe that the basin pumping is already at its safe yield. (As you may know, a cone of depression is not direct evidence of overdraft since all wells create a cone of varying sizes etc... Even issues like well interference do not provide direct evidence of overdraft, and damages do not exist just because someone has to drill deeper to get water because others have installed wells to satisfy their overlying uses).

Since Jim's letter was not argumentative, I'm inclined to believe that they are simply preserving an opinion based on the lack of data. Regarding annexations, he might want to argue that plenty of water exists; regarding water rights, it could be the opposite. In either case, he may also just be pointing to the fact that more data would be better and we agree. In general, we are getting good feedback on the uncertainties that exist relating to agricultural water demand.

Regarding data, Courtney and Sylas (primarily Sylas) completed a data "gap analysis" to determine where we would like more data. Part of upcoming public workshops in NC will include soliciting more data from those who have wells. As a side note, our gap analysis was prepared Countywide, and funded from a State Water Board IRWM grant.

So, I imagine this is a bit of food for thought, since Paso is our largest basin, we have done a lot of work on it. Courtney can attend an upcoming Monday meeting to discuss more. Hope this helps.

Paavo Ogren Director of Public Works pogren@co.slo.ca.us 805-781-5291 (w) 805-781-1229 (fax)

Bruce Gibson

Courtney -- Can you give me some background...

03/31/2010 10:48:47 AM

PRO Water Equity, Inc.

Paso Robles Groundwater Basin Overliers for Water Equity

www.prowaterequity.org info.prowaterequity@gmail.com www.facebook.com/ProWaterEquity P.O. Box 255, Templeton, CA 93465

May 30, 2015

Chairman Ken Topping Commissioner Jim Irving Commissioner Eric Meyer Commissioner Jim Harrison Commissioner Don Campbell

Re: Request for comments on Countywide Water Conservation Program

Dear Commissioners,

Per Commissioner Irving's request after my public comments at Friday's Planning Commission Study Session on the Countywide Water Conservation Program, the following are the substantive points that were made:

I am Laurie Gage, rural resident and Vice President of PRO Water Equity, one of the two groups whose compromise formed the basis for AB2453. We would like to ask you to address the question of a minimum acreage exemption to the Ag Offset Program. Small family agriculture certainly needs protection, but 20 acres may be too large for exemption purposes. 20 acres, especially in multiples, could cumulatively have a great impact. We would request that you consider a 5-acre and under exemption as that does allow for farm-to-table type of agriculture to exist. We further ask that whatever the exemption level you move forward, you consider making any plantings under the exemption not capable of being used for offset down the line.

We further would encourage you to consider some sort of proximity analysis for discontiguous offset occurring within the areas of severe decline in connection with a discretionary permit process.

Additionally, we are concerned that any planting that may occur due to the window that now exists between the expiration of the current Urgency Ordinance and what will replace it, not be used for future offset or any basis for vested rights. Please make that part of your recommendation to the Board of Supervisors.

We would like to acknowledge the hard work of the agricultural community in their acceptance of the need for the ordinance, and their hard work and compromise on the various parts of the program.

Thank you.

Laurie Gage Vice President

cc: Xzandrea Fowler, SLO County Planning Department

Mission Statement: To promote the health, safety, common good and general welfare of the community by advocating for the stabilization and sustainability of the Paso Robles groundwater basin for the benefit of all overliers.